IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Misc. Application No. 10934 of 2006

In

Contempt Petition No. 204 of 2006

Sarwjan Kalyan Samittee
Damuadhunga, Kathgodam,
Haldwani, Distt. Nainital
Through its President Tara Dutt Pandey

…… Petitioner

Versus

1. Girish Chandra Binwal,
   Executive Engineer,
   Public Works Department,
   Construction Division, Haldwani,
   District Nainital.
2. Prakash Chandra Pant,
   Executive Engineer, Irrigation Department,
   Haldwani, District Nainital.

…… Respondents

Mr. M.S. Pal, Sr. counsel assisted by Mr. V.S. Pal, M r. C.S. Bagdwal and
Mr. D.N. Sharma, Advocates for the petitioner.
Mr. Subhash Upadhyaya, Brief Holder for the State.

Hon'ble P.C. Pant, J.

Learned counsel for the parties are present.

2) This is application No. 10934 of 2006, moved on behalf of respondent No. 2, for dismissal of contempt petition. From the perusal of affidavit of respondent No. 2 accompanying said application, it appears that there is no direction to the respondent No. 2 from the Court, nor is he responsible for complying the directions issued to the Public Works Department. It is stated by respondent No. 2 that he is an officer in the Irrigation Department and not in the Public Works Department. Therefore, the application

No. 10934 of 2006 is allowed and the Contempt Petition as against respondent No. 2 is dismissed and notices issued against said respondent are hereby discharged.

3) Respondent No. 1, Girish Chandra Binwal, Executive Engineer of Public Works Department has also filed his response in the form of counter affidavit, to the notices issued by this Court. In para 5 of the counter affidavit, the responden6t No. 1 has stated as under:

> *"That the contents of para 3 and 4 of the contempt petition, as stated are misconceived, erroneous and as such, are denied. It is submitted that on the said road dnown as Caltex Kathgodam to Panchakki Chauraha Damuadhunga, Haldwani, Nainital, only small vehicle like Jeep, Taxi, Car, Tempo, Van etc. are allowed to ply and the plying of heavy vehicles, such as Truck etc. is prohibited. It is pertinent to mention here that in the writ petition No. 1327 (M/B) of 2005, a detailed counter affidavit was filed in which it was specified that for prohibiting the heavy vehicles plying on the said road, barriers have been installed on the said road. The above referred fact is also mentioned in para 3 of the order dated 20.02.2006. The position as existing on the passing of the order dated 20.022006 is still enforced and no heavy vehicle is allowed to pass through the Caltex Kathgodam to Pasnchakki Chauraha Damuadhunga, Haldwani, Nainital."*

The direction of the Court in Writ Petition No.1327 (M/B) of 2005 was not to permit heavy vehicles on Caltex Kathgodam to Panchakki Chauraha Damuadhunga road.

4) It is pertinent to mention here that the 'Heavy Goods Vehicle' and the 'light Motor Vehicle' are defined under Section 2 of the Motor Vehicles Act, 1988. The 'Light Motor Vehicles' are the vehicles unladen weight of which does not exceed 7,500 Kilograms. In the above circumstances, by restricting only Heavy Motor Vehicles from plying on the aforesaid road and permitting the Light Motor Vehicles being plied through the aforesaid road, it cannot be said that there is a case of disobedience of the order of this Court, passed by the Division Bench in Writ Petition No. 1327 (M/B) of 2005.

5) Accordingly, the Contempt Petition as against respondent No. 1 is also dismissed and notices are discharged. The contempt Petition also stands disposed of, in view of the aforementioned observations.

(Prafulla C. Pant, J.)

Dt.: 29th August, 2006
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